IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 724 (SS) 2003.

Smt. Ganga Bisht W/o late Sri Bachi Singh Bisht,
At present posted as Class IV employee,
Kumaon Jal Sansthan, Chilyanaula Ranikhet,
District Almora. .....Petitioner.

Versus

1. General Manager,
   Kumaon Jal Sansthan, Nainital,
2. Executive Engineer,
   Kumaon Jal Sansthan, Nainital. .....Respondents.

Sri T.S. Rautela, learned counsel for the petitioner,
Sri J.P. Joshi, learned counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri T.S. Rautela, learned counsel for the petitioner and Sri J.P. Joshi, learned Standing Counsel for Kumaon Jal Sansthan/respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

a. Issue a writ, order or direction in the nature of mandamus directing the respondents to pay all the balance amount of general insurance, general provident fund, gratuity, bonus for the year 1995-96, link insurance, leave encashment and salary for the period of 01.10.1996 to 12.10.1996 forthwith including 12% interest per annum,

b. Issue a writ, order or direction in the nature of which this Hon'ble Court may deem fit and proper in the circumstances of the case,

c. Award the cost of the writ petition to the petitioner.

Briefly stated; that the husband of the petitioner late Sri Bachi Singh Bisht was an employee appointed as Driver in the year 1989 in the respondent's Department. The vehicle, which the petitioner was plying, while performing his duties, was requisitioned by the election office in the year 1996 for general election duty. While the general elections were in process, the vehicle, which was being plied by the petitioner's husband, met with an accident on 12.10.1996 in which he also expired. Thereafter, the widow of the deceased i.e. the petitioner made requests to the respondents for making payment of the amount of gratuity and other retrial dues of her husband, however the same was not paid by the respondents to her, consequently she constrained to file the present petition with the prayer to issue directions to the respondents to make payment of the retrial dues of her departed husband.

The writ petition was filed on 31st July 2003 and on 1st August 2003, this Court directed the respondents to pay retiral dues to the petitioner or show cause within a period of four weeks. After passing of the aforesaid order, the respondents sanctioned the sum of retiral dues on 07.10.2003 and paid the same to the petitioner on 08.10.2003 after deducting a sum of Rs. 14,809/-. Out of the total sum of Rs. 14,809/- a sum of Rs. 9,834/- was deducted towards the depreciated value of damaged vehicle which was damaged by the petitioner's husband in the accident; a sum of Rs. 25/- was deducted towards the group insurance; a sum of Rs. 3,000/- was

deducted which was paid in advance as immediate interim relief and a sum of Rs. 1,950/- was deducted adjusting the amount of advance which was given to the husband of the petitioner. The sum of Rs. 9,834/- has been deducted on the ground that the deceased was deputed to perform the duty of elections alongwith the vehicle in the general elections, however according to the respondents, the deceased without informing the person concerned under whom the vehicle was handed over for election duties as also without prior permission of the Department, has taken away the vehicle to the place where it was not required to be plied and the vehicle was damaged after it met with the accident. Learned counsel for the petitioner neither produced any document nor has asserted anywhere that the vehicle was required under the order of the competent authority at the place where it was damaged. After careful consideration of the submissions made by the learned counsel for the respondents, I find substance in the arguments advanced by the learned counsel for the respondents that the amount of Rs. 14,809/- so deducted from the retiral dues of the deceased by the respondents is reasoned and justified.

Learned counsel for the petitioner has further contended that the petitioner was paid the retiral dues after about 7 years and the gratuity was paid to her after about 9 years for no fault on the part of the petitioner, as such, the petitioner is entitled interest on the amount of gratuity as also on the amount of other retiral dues which were paid after a considerable period.

In the circumstances mentioned above, I find it just and proper to direct the respondents to pay interest to the petitioner

on the amount of gratuity and other pensionery benefits of her late husband Sri Bachi Singh Bisht.

Accordingly, I direct the respondents to make payment of interest @ 6% p.a. to the petitioner on the amount of gratuity and other pensionery benefits from the date when it become due to the petitioner till the date of actual payment is made to the petitioner within a period of three months from the date of production of a certified copy of this order.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

December 15, 2006:
NCM: